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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/826,651	04/16/2004	Richard J. Morris	1915.24US04	2287

7590 10/06/2004

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EXAMINER

LU, JIPING

ART UNIT PAPER NUMBER

3749

DATE MAILED: 10/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/826,651	Applicant(s) MORRIS ET AL.	
	Examiner Jiping Lu	Art Unit 3749	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-37 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-37 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>8/2/04</u> . | 6) <input type="checkbox"/> Other: ____.  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. Claims 1-37 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. For claims 1, 13, 14, 15, 16 and 26, it is not clear whether the claimed a multiplicity of discrete top panel air passages and the claimed a plurality of discrete vent part air passages are the same air passages. If they are different, then, what the claimed multiplicity of discrete top panel air passages is and where is the support in the disclosure for the claimed multiplicity of discrete top panel air passages?

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 9, 11, 12, 15, 16, 17, 23, 24, 25, 26, 33, 35-36, 37, as best understood, are rejected under 35 U.S.C. 102(e) as being anticipated by Coulton et al. (U. S. Pat. 6,308,472).

Coulton et al. show a roof ridge vent with a top panel 38, a vent part 30 and a filter 44 secured to the bottom surface of the vent part and to the top panel same as claimed.

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4. Claims 1, 9, 11, 12, 15, 16, 17, 23, 24, 25, 26, 33, 35-36, 37, as best understood, are rejected under 35 U.S.C. 102(e) as being anticipated by Coulton et al. (U. S. Pat. 6,298,613).

Coulton et al. show a roof ridge vent with a top panel 18, a vent part 30 and a filter 50 secured to the bottom surface of the vent part and to the top panel same as claimed.

5. Claims 13, 14, 15, 16, 18-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Sells (U. S. Pat. 5,704,834).

Sells show a roof ridge vent with a top panel 28, a vent part 24, 26 with a plurality of stacked panels defining a plurality of flow passages 132 and a thin sheet of air permeable, water resistant material 38 extending or being secured between the top panel and the bottom surface of one of the vent parts same as claimed.

### *Claim Rejections - 35 USC § 103*

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 2-8, 10, 13, 14, 18-22, 27-32, 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Coulton et al. (U. S. Pat. 6,308,472) or Coulton et al. (U. S. Pat. 6,298,613) in view of Morris et al. (U. S. Pat. 5,947,817 or 5,934,995 or 5,651,734).

The roof ridge vent of Coulton et al. (U. S. Pat. 6,308,472) or Coulton et al. (U. S. Pat. 6,298,613) disclosed all that is recited in claims 2-8, 10, 13, 14, 18-22, 27-32, 34 except for the vent housing with a plurality of stacked panels of the corrugated weatherproof sheet material.

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Morris et al. teaches a roof ridge vent comprising a vent housing with a plurality of stacked panels of the corrugated weatherproof sheet material same as claimed. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute the vent housing of Morris et al. for the vent housing of Coulton et al. in order to improve the ventilation efficiency.

8. Claims 1-12, 17, 26-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sells (U. S. Pat. 5,704,834) in view of Coulton et al. (U. S. Pat. 6,308,472 or 6,298,613).

The roof ridge vent of Sells as above includes all that is recited in claims 1-12, 17, 26-37 except for the filter material secured to the bottom surface of the vent part. Patents to Coulton et al teach a roof ridge vent with filter (44 or 50, respectively) secured to the bottom surface of the vent part same as claimed. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to secure the filter of Sells to the bottom surface of the vent part as taught by Coulton et al. in order to improve the ventilation efficiency.

### ***Double Patenting***

9. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

10. Claims 1-37 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-18 of U.S. Patent No. 6,450,882. Although the conflicting claims are not identical, they are not patentably distinct from each other because both claim a roof ridge vent with a top panel, a filter and ventilation portions constructed from a three-ply material of corrugated weatherproof sheet.

11. Claims 1-37 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-23 of U.S. Patent No. 6,623,354. Although the conflicting claims are not identical, they are not patentably distinct from each other because both claim a roof ridge vent with a top panel, a filter and ventilation portions constructed from a three-ply material of corrugated weatherproof sheet.

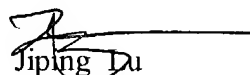
### ***Conclusion***

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jiping Lu whose telephone number is 703-308-2354. The examiner can normally be reached on Monday-Friday, 9:00 AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira Lazarus can be reached on 703 308-1935. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Jiping Du  
Primary Examiner  
Art Unit 3749

J. L.